

### **REMARKS**

Claims 1, 2, and 5-29 constitute all currently pending claims in the Application. Claims 1, 2 and 5-24 stand allowed.

#### ***Specification***

The Examiner objects to the incorrect numbering of paragraphs in the Substitute Specification submitted on October 5, 2007. Applicant notes that the misnumbering of paragraphs was due to a technical software malfunction. Accordingly, Applicant submits herewith a corrected version of the Substitute Specification filed on October 5, 2007, and respectfully requests that the objection be withdrawn.

#### ***Claim Rejection under 35 U.S.C. § 103***

Claims 25-29 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,738,355 to Love et al (“Love”) in view of U.S. Patent Application Publication No. 2002/0055999 to Takeda (“Takeda”). Applicant traverses this rejection for at least the following reasons.

Claim 25 requires “signaling means for determining said configuration data from said signaling message; wherein said determining comprises reading a specific label, contained in said one or more packets, and determining whether said one or more packets are a signaling message from this specific label.” The Examiner concedes that Love fails to disclose the above-quoted features of claim 25, but contends that Takeda makes up for this deficiency of Love. (Office Action at 4-5). The Examiner cites the Abstract and ¶¶ [0022] and [0082] of Love as allegedly teaching these features of claim 25. The cited portions of Takeda, however, lack any such teaching or suggestion.

First, the Abstract of Takeda explains that the system examines a packet entering a network, determines the node at which the packet will exit from the network based on “its source and final destination addressee,” and determines at the egress node whether a received packet is identical to a packet which previously entered the network. Based on a comparison of the time at which the packet entered the network and exited the network, the system can determine the quality of service for that packet. Nothing in the Abstract of Takeda, however, teaches or suggests that the system determines that a packet is a signaling message, determines configuration data from any of these packets, or reads any specific label in these packets to determine whether they are, in fact, signaling messages. The only determination made in the Abstract of Takeda is whether a packet received at an egress node is identical to a packet which previously entered the network, and the time it took for that packet to travel from the ingress node to the egress node.

Applicant further notes that the “configuration data” recited in claim 1 is configuration data **for performing measurements**, as claim 1 recites “measurement means for performing measurements, in accordance with configuration data.” Nothing in the Abstract of Takeda appears to discuss configuration data for performing measurements.

With respect to ¶ [0022] of Takeda, this paragraph merely describes in more detail how the egress node or destination node in the network is determined based on the source and **final** destination addresses of a packet. Paragraph 22 states that “such a destination can be determined by referring to a preset network configuration data or also using MPLS (multiprotocol label switching).” The “preset network configuration data” and MPLS are only described here as methods of determining where a packet will exit the network, i.e., its destination node or egress

node in the network. The described configuration data, moreover, has no relation to configuration of “measurement means for performing measurements,” as is required by claim 25.

Furthermore, ¶ [0082] of Takeda describes how the system attempts to match a packet received at an egress node with records of packets entering the network. The system attempts to determine a difference between the inflow time stamp and outflow time stamp of a packet whenever it is able to match up the inflow and outflow packet information. Thus, **the system of Takeda attempts to make such a measurement for every packet traveling through the network**. However, when a match cannot be made, the system is simply unable to make the measurement. A match may fail to be made for a variety of reasons; for example, a match may fail because the in-buffer lifetime may have expired for a particular packet.

Thus, ¶ [0082] does not describe modifying, adding, or deleting a measurement task, as alleged by the Examiner, but rather describes how Takeda attempts to make a measurement for every packet, but may be unable to do so in certain cases. The cited portion of Takeda, therefore, fails to teach or suggest the subject matter of any of claims 26-28.

Finally, neither Love nor Takeda teach or suggest that a signaling message comprises two or more packets, as required by claim 29. Although the Examiner rejects claim 29 together with claim 25, the Examiner cites nothing in Love or Takeda to support the proposition that these references, alone or in combination, teach a signaling message comprising two or more packets, and that configuration data for performing measurements is determined from such a signaling message, as required by claim 29.

Thus, Love and Takeda, alone or in combination, fail to teach or suggest each and every required element of independent claim 25 or its dependent claims 26-29. These references,

therefore, fail to render claims 25-29 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection.

***Conclusion***

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Amendment is being filed via the USPTO Electronic Filing System (EFS). Applicant herewith petitions the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

/Kelly G. Hyndman 39,234/  
Kelly G. Hyndman  
Registration No. 39,234

Date: September 9, 2008